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CAREER PATHS FOR WOMEN AND MINORITIES IN THE NEW MILLENNIUM

Ms. Laura Kingsley Hong was the keynote speaker at a luncheon presented by the Buffalo Women's Law Journal and the Asian American Law Student Association that took place on April 27, 2000. Ms. Hong delivered a speech entitled "Career Paths for Women and Minorities in the New Millennium".

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Ms. Hong is the current President of the National Asian Pacific American Bar Association and President for the Federal Bar Association, Northern Ohio Chapter. Ms. Hong is a member of the Federal Court Magistrate Selection Committee, the Cleveland Bar Association: Litigation Section, ABA Council on Racial & Ethnic Justice, ABA Advisory Committee of the Conference on Minority Partners, Ohio State Bar Association Council of Delegates and the Ohio Association of Civil Trial Attorneys: Insurance Relations Committee.

COMMENT: OBSERVATIONS ON OPTIMIZING OPPORTUNITIES

BY: LAURA KINGSLEY HONG, ESQ.

I was invited here to speak on women and minorities in the law. In preparation for my remarks today, I reviewed various statistics provided by the National Association for Law Placement ("NALP"), the American Bar Association ("ABA") and the National Law Journal. The figures tell us what, for the most part, we already know: that since 1991, women have accounted for more than forty percent (40%) of law school graduates, and minorities have accounted for nearly twelve percent (11.8%), increasing to twenty percent (20%) in 1998. And yet, despite these figures, NALP's February 2000 Bulletin reports that women account for just fifteen percent (15%) of partners, and minorities account for just three and a quarter percent (3.25%) of partners. The figures do not tell us though, what the numbers should be - how many women and minorities should have been, but were not, afforded the opportunity to become partners. Nor are the figures provided

broken down to reflect the distinction between equity and non-equity partners. In short, while we know the numbers of women and minority partners are on the rise, particularly in larger law firms, those numbers remain dismally low on a nationwide basis.

That having been said, I do not stand before you to talk figures. I am not a statistician, and doubt the data exists to permit credible publications to report on lost opportunities. What I can discuss are my observations on optimizing opportunities.

When invited to comment, I considered my audience. I say this as a caveat to my remarks. If I were speaking to a group of managing partners or CEO's, surely my remarks would be different. But I am speaking to you, the future of the legal profession. Today, I share with you my observations and encourage you to evaluate your behavior in such a way that will enable you to optimize your opportunities.

To provide a framework, I have used the 1997 American Bar Association Commission on Women in the Profession publication *Fair Measure*. *Fair Measure* is a guide that sets forth concrete and effective methods for eliminating gender bias from the attorney evaluation process. *Fair Measure* premises its methods on five challenges women face in the legal workplace. The five challenges apply to minority lawyers as well.

To paraphrase, the Five Challenges are:

- 1) being forced to overcome stereotypical assumptions;
- 2) being held to a higher standard;
- 3) being required to navigate the pitfalls and learn the rules of the game with less assistance;
- 4) accessing business development opportunities in a white male dominated environment; and,
- 5) recognizing the impact of gender and race differences in communication styles.

It is within the structure of the Five Challenges that I provide my observations on how you can maximize your opportunities to succeed in your legal career.

It goes without saying that I have turned *Fair Measure* on its head. *Fair Measure* is written for law firm management - for human resources and personnel departments. I have taken the accepted research from *Fair Measure* and provide my observations in the context of what you can do to maximize your opportunities. The intent here is not to suggest that you, as women and minorities, bear the ultimate responsibility on whether opportunities exist in the first instance; much of that will be beyond your control. It is, however, your responsibility to create the best environment possible to enable yourself to succeed. And that environment is measured in terms of optimizing the opportunities presented to you.

I. Challenge Number One: Overcoming Stereotyped Assumptions.

In the context of a law firm, the concept of stereotyping is complex enough to make one's head spin. In the old days, stereotypes were clearly articulated. And though stereotyping exists, today's management is more diverse than it has ever been.

During your early career, the decision-makers that affect you are likely to be law firm recruiters, hiring partners and lawyer personnel. Partners in these positions are frequently younger and less representative of the "old guard." Once you have become an associate, you will work with midlevel associates, senior associates, partners and senior partners. In each context, you will need to determine what stereotypes have to be overcome. Because of the diversity in the individuals you will be working with, it cannot be said, in general terms, what stereotypes will have to be overcome. Perhaps it is a positive for a woman to be a great cook, or perhaps a woman levels the playing field when

it is perceived that she cannot cook at all. Perhaps a woman will intimidate by knowing baseball statistics, or perhaps she will impress. Perhaps a woman who carries her own trial bag renders her male colleagues impotent, or perhaps she fosters a feeling of subordination by accepting assistance. Perhaps an Asian American lawyer who cannot readily calculate complex damages analyses will be deemed, somehow, to be a disappointment. In short, while law firm environments have become more diverse, so, too, have the stereotypes. On one trial team you may need to navigate many contradictory stereotypes. Either way, you need to know how to identify the stereotypes, and how to make them work to further your opportunities.

In my experience, attorneys who understand the stereotype that is being thrust upon them are able to manipulate the stereotype so it can work for them. For example, women who appreciate that they are perceived as too bullish or too aggressive should consider the simple office politic of accepting assistance in areas of little significance such as letting someone else carry a trial bag, or accepting being the first to leave the elevator. Women and minorities are frequently perceived as being less confrontational and therefore, less likely to adequately represent the client's interests. Associates facing this stereotype do not need to change their demeanor, but they must be cognizant and demonstrate perseverance and commitment. Similarly, women often are viewed as having less commitment to their careers than their male counterparts. In my experience, women tend to highlight their personal lives, family life and other activities that take them away from the office. Female associates highlight pressing personal matters that require absence from the office. And though the associate feels the need to explain, supervisors interpret this information as a sign of diminished commitment. I suggest refraining from constant

explanations. If the work is being done, timely and accurately, personal issues should not be highlighted. Nothing is lost with these simple behavioral modifications, but the result may soften and ultimately eradicate undesirable stereotypes.

Allow me to suggest that you not waste time and energy being insulted by a stereotype. Law firm life is too difficult as it is. And while it is important to understand why a particular assignment has been thrust upon you, your job is to produce the best work product possible and to seize the opportunity to demonstrate that you have more to offer than the confines of the stereotype. For example, the reality is that the typical Asian American lawyer is no more likely to speak Chinese than the typical Italian American lawyer is likely to speak Italian. Yet, the Asian American lawyer is more likely to be approached out of the blue, and asked to translate an Asian language document. In that situation, I would suggest that one resist being paralyzed by the assumption, and utilize resources to provide the requestor with information on how to get the document translated. Throw the dart later; get the job done now. In so doing, the lawyer demonstrates resourcefulness and seizes an opportunity to work with an attorney that she might not have had the opportunity to work with otherwise. This also allows the other attorney to get to know you as a person rather than as a stereotype. The goal here is to provide you with an opportunity to forge a new working relationship that moves beyond the stereotype and into more interesting and challenging assignments.

II. Challenge Number Two: Being Held to a Higher Standard.

If the expectation is that an associate will be great, management is likely to be more tolerant of that associate's mistakes. The perception of women and minority associates is that they do not have the benefit of this increased tolerance; that expectations

of them are lower, and that their work is judged more harshly. Associates who believe that they are being held to a higher standard are likely to return to supervisors an inordinate number of times in an effort to eliminate mistakes. These associates leave endless phone mails and emails -- none of which are favored by assigning attorneys. In the end, the work product may be stellar, but in the process of getting there, the associate has appeared tentative and lacking confidence. This, in turn, encourages the assigning attorney to scrutinize the work more closely.

Overcoming this challenge is probably the simplest. Minority and female associates must resist assuming that they are being held to a higher standard, must approach the assignment with confidence, and submit the assignment with confidence. I have seen many associates survive several years in the practice of law - often when their substantive work did not justify it -- solely on a cloud of confidence. And by all means, demonstrate confidence in the face of opposing counsel, clients and jurists. If you lack confidence, fake it; for this purpose, it is just as effective.

III. Challenge Number Three: Navigating the Pitfalls and Learning the Rules of the Game with Less Assistance.

As minority female partners, we mentor and provide guidance on inside firm politics to those women and minorities who seek our advice. But I caution you to consider the source. We are few and, more often than not, stretched to the limit. Further, minority and women partners may not be melded firmly into firm politics. We can advise you on how to succeed as minorities and women, but have not cornered the market on how to become skilled attorneys. While I urge you to take advantage of our insight, do not limit yourself in your quest for support and assistance.

The associate must make an effort to broaden the support network and resist relying solely on a few. Mentors and advisors should not be chosen simply based on race or sex. An associate can determine intuitively, in a relatively short period of time, whether a more senior lawyer has taken an interest in taking on a more advisory role. But the associate must remember that the relationship must grow in both directions. "Needy" associates are exhausting, perceived as weak and lacking in judgment. Associates who effectively seek professional advice encourage mentoring by massaging the mentor's ego.

Accept speaking engagements and writing opportunities. Associates who engage in self-marketing and self-promotion are more likely to stand out and be acknowledged. Further, successful associates take advantage of social functions, departmental lunches, educational activities and firm programs. They observe behavior and absorb information. The only way an associate can appreciate and understand firm politics is to frequent venues where firm politics are discussed. The diligent associate behind the closed door is blind to her surroundings.

And stop saying you were not "invited." Associates who wait for others to come to them are often left hanging. Engage in hallway discussions, listen at the coffee station, and join colleagues for lunch. Knowing with whom you work and what your colleagues are doing will provide you with the necessary information to maximize your opportunities.

IV. The Fourth Challenge: Accessing Business Development Opportunities in a White Male Environment.

Though it is not clear from *Fair Measure* whether the white male environment referenced is the law firm or the corporate world, women and minority lawyers must develop their own business and social networks. Associates who read the local

newspaper, local business weekly, and the local legal newspaper are more likely to know about their colleagues, firm clients, judges and opposing counsel. This knowledge provides topics of conversation and demonstrates concern and interest in existing and prospective clients. Management wants to know that the associate is interested in the firm. They want to know the associate is interested in the firm's clients and the legal community generally. It is reasonably perceived that the associate armed with this sort of information will be well positioned to render critical advice to clients, supervisors and colleagues, and this perception will foster opportunity.

V. The Fifth Challenge: Recognizing the Impact of Communication Style.

Associates must recognize how their communication is perceived. In my observation, when men and women gather in an office and engage in chitchat, younger women are more likely to stand with arms crossed. We all know that this posture is defensive and most certainly does not convey confidence.

Voice inflection has been widely discussed. Loud male voices are often perceived as confident, while the comparable decibel spoken in a female voice is disfavored. The associate should examine her communication style and the resultant response. Consider your audience. If you are sitting in a meeting with other attorneys and every time you interrupt with a point, the other attorneys roll their eyes or appear disinterested, limit your comments. However, in another meeting, interruptions may be encouraged and well received; they may be considered a sign of eagerness and attentiveness. Observe the response to your comments and govern your behavior accordingly.

Further, the associate must carefully consider her statements. Good lawyers are acute listeners. For example, when conveying the inability to obtain information, the

associate who says she "cannot find" something is perceived as being whiny, incompetent and uncertain. By saying instead that, she has reviewed the file, and the file does not contain the information, she has confidently stated a fact.

Finally, tears. At all cost, leave them in the bathroom or your best friend's office. The ability to accept criticism is the key to success in a law firm. When evaluators are faced with tears, evaluations become personalized and less constructively candid. Women and minorities must learn to divorce themselves from specific criticisms on work product and resist taking them as personal affront. Successful associates are able to distance themselves from criticism and appreciate that criticisms are directed only to one segment of work, or at most, a portion of lawyering, rather than at the whole person.

